

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

FEB 14 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) MM Docket No. 93-270
)
Amendment of Section 73.202(b),) RM-8323
Table of Allotments,) RM-8339
FM Broadcast Stations,) RM-8428
(Cordele, Dawson, Montezuma,) RM-8429
Nashville, Hawkinsville, Cussetta,) RM-8430
Cuthbert, and Leary, Georgia))

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

SUMMARY REPLY COMMENTS OF
TIFTON BROADCASTING CORPORATION

Tifton Broadcasting Corporation ("TBC"), by its attorneys, files these Summary Reply Comments in the above-captioned docketed rulemaking proceeding. This is filed pursuant to the Commission's Public Notice, Report No. 1997, released January 28, 1994, that afforded interested parties 15 days within which to reply to counterproposals filed by Tri-County Broadcasting Co. ("Tri-County"), Montezuma Broadcasting ("Montezuma"), and Jack Tuck and Phonso Donaldson, Bankruptcy Court Receivers for Dawson Broadcasting Company ("DBC"). These Reply Comments show that TBC's counterproposal should be granted. In support, TBC shows the following:

Background

By Notice of Proposed Rulemaking (Cordele, Dawson & Montezuma, Georgia)("NPRM"), 8 FCC Rcd 7672 (1993), the Commission proposed a rearrangement of the Table of Allotments as follows:

No. of Copies rec'd
List ABCDE

045

City (All Georgia)	Channel No.	
	Present	Proposed
Cordele	252A	236A
Montezuma	236A	290A
OR		
Cordele	252A	236A
Dawson	251A	252C3
Montezuma	236A	290A

Interested parties were given until December 20, 1993, within which to file comments or counterproposals; so on that date, TBC filed its "Comments, Counterproposal, and Motion for Modification of License" seeking to substitute FM channel 237C2 for 237C3 at Nashville, Georgia, and modify the license of WJYF for operation on the Class C2 channel.

On the same date, Tri-County, licensee of WQSY,¹ Hawkinsville, and Montezuma jointly filed a counterproposal seeking to substitute Channel 280C3 for Channel 236A at Montezuma, substitute Channel 236C2 for Channel 280C3 at Hawkinsville, upgrade WQSY, substitute Channel 264A for Channel 279A at Cusseta, and delete Channel 264A at Cuthbert without allotting a replacement channel.

DBC filed a counterproposal requesting a change of community of license of WAZE(FM), Dawson, to Leary, Georgia, substitute Channel 251C3 for Channel 251A at Leary, upgrade WAZE, substitute Channel 236A for Channel 252A at Cordele, substitute channel 290A or Channel 221A for Channel 236A at Montezuma

¹ Formerly WCEH.

(Option I); OR, Change community of license of WAZE from Dawson to Leary, substitute Channel 251C3 for Channel 251A, substitute Channel 290A or 221A for Channel 236A at Montezuma (Option II); OR, substitute Channel 251C3 for Channel 251A at Dawson, substitute Channel 236A for 252A at Cordele, and substitute Channel 290A or 221A at Montezuma (Option III).

On January 4, 1994, as permitted by the NRPM, TBC filed its first of reply comments in this proceeding. Replies were also filed by Radio Cordele, Inc., and DBC, which supported TBC's counterproposal, and urged the Commission to reject the Tri-County/Montezuma proposal as legally deficient. Walter McCrary filed reply comments and an expression of interest stating that he intended to apply for a construction permit for vacant, but unapplied for, Channel 264A at Cuthbert, Georgia. Tri-County/Montezuma filed reply comments arguing that their proposal is preferred.

Today, TBC is filing these Summary Reply Comments.

ARGUMENT

Attached hereto is an Engineering Statement prepared on behalf of TBC that supports TBC's proposal to upgrade WJYF from Class C3 to Class C2. The Statement shows that the proposed upgrade of WJYF, the upgrade of WAZE, and the substitution of Channel 236A for Channel 252A at Cordele would best serve the public interest.

It should be noted that TBC is requesting the Commission to specify different reference coordinates for the Nashville and Cordele allotments than those proposed by

DBC in order to allow TBC sufficient area to locate an upgraded WJYF facility. The proposed reference coordinates are:

Nashville (237C2):	31° 15' 18" North Latitude 83° 17' 08" West Longitude
Cordele (252A)	32° 03' 31" 83° 52' 55"

As shown in the Engineering Statement, it is believed that the TBC proposal represents the only alternative that will allow an upgrade for WJYF and WAZE. WQSY, Hawkinsville, Georgia, would not be eligible for an upgrade. This is because its upgrade requires the deletion of Channel 264A at Cuthbert, and there is at least one expression of interest for the channel. The Engineering Statement shows that there is no substitute channel available at Cuthbert. Also, Tri-County seeks a non-mutually-exclusive channel substitution from 280C3 to 236C2 for WQSY, that would ordinarily open Channel 236C2 for competing applications, delaying the expansion of service to the public. Therefore, Tri-County/ Montezuma's population showings are irrelevant.


Under Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982), the Commission established four priorities for choosing between conflicting allotment proposals. Here, Priorities (1) and (2) (first and second aural service) do not appear to be relevant. Thus, the determination must be made on the basis of Priority (3) (first local service), and (4) (other public interest matters). As shown above, the Tri-County/Montezuma proposal is not viable since it would deprive Cuthbert, Georgia, of its first local service for which an expression of interest exists.

This factor alone requires the Commission to reject the Tri-County/Montezuma proposal. Adoption of TBC's counterproposal is fully consistent with DBC's proposal under Option II. The Commission could provide upgraded service by WJYF on Channel 237C2; and upgraded service by WAZE on Channel 251C3; while not depriving the citizens of Cuthbert of their only opportunity for local service.

In light of the foregoing, TBC respectfully requests the Commission to adopt its counterproposal, RM-8428 as modified herein.

Respectfully submitted,

TIFTON BROADCASTING CORPORATION

By: 

Gary S. Smithwick
Its Attorney

SMITHWICK & BELENDIUK, P.C.
1990 M Street, N.W., Suite 510
Washington, D.C. 20036
(202) 785-2800

February 14, 1994

Engineering Statement

REPLY COMMENTS IN MM DOCKET 93-270

prepared for
Tifton Broadcasting Corporation
FM Station WJYF Nashville, Georgia

This statement has been prepared on behalf of Tifton Broadcasting Corporation (TBC), licensee of station WJYF, Nashville, Georgia in support of its proposal to upgrade WJYF from class C3 to class C2 on channel 237 in Nashville. These comments will demonstrate that the proposed upgrade of WJYF, the upgrade of WAZE at Dawson, Georgia from channel 251A to 251C3, and the substitution of channel 236A for channel 252A at Cordele are compatible and preferable to the other pending proposals.

Allotment Proposals

The following arrangement of channels is proposed:

(Modified TBC Option)

	<u>HAS</u>	<u>PROPOSED</u>
Nashville	237C3	237C2 (site restricted)
Cordele	252A	236A (site restricted)
Dawson	251A	251C3
Leary		- -
Montezuma	236A	290A
Hawkinsville	280C3	280C3
Cusseta	279A	279A
Cuthbert	264A	264A

This arrangement of channels is the same as proposed by Dawson Broadcasting Company (DBC) in its Reply Comments dated January 3, 1994. However, TBC requests that the Commission specify different reference coordinates for the Nashville and Cordele allotments than those proposed by DBC in order to allow TBC sufficient area to locate an upgraded WJYF facility. The proposed reference coordinates are:

Nashville (237C2) : 31° 15' 18" North Latitude
83° 17' 08" West Longitude

Cordele (252A): 32° 03' 31" North Latitude
83° 52' 55" West Longitude.

The proposed coordinates are approximately 1 kilometer from those proposed by DBC.

If adopted, this arrangement would preclude improvement of station WCEH, Hawkinsville from class C3 to class C2 and the proposed improvement of the Montezuma allotment from class A to class C3. It would not require either the substitution of channel 264A for channel 279A at Cusseta nor the deletion of channel 264A at Cuthbert. That possible arrangement of channels is described as follows:

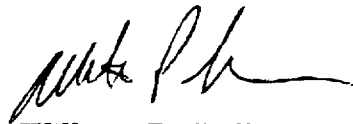
(Modified Tri-County Option)

	<u>HAS</u>	<u>PROPOSED</u>
Nashville	237C3	237C3
Cordele	252A	252A
Dawson	251A	-
Leary		- 251C3
Montezuma	236A	280C3
Hawkinsville	280C3	236C2
Cusseta	279A	264A
Cuthbert	264A	-

An examination of the present allotment situation related to Cuthbert, Georgia reveals that there are no substitute channels available for use in that community. An expression of interest has been made for retaining the channel at that community. If the Commission accepts the expression of interest, it will not be possible to make the allotment substitutions proposed by Tri-County. Accordingly, it is believed that the proposed TBC modified proposal represents the best possible service arrangement that conforms with the Commission's requirements.

Conclusion

It is believed that the TBC Modified Option represents the only alternative that will allow for the upgrade of two stations. Given the expression of interest in the Cuthbert channel, it is believed that the Tri-County proposal is not feasible.



William P. Suffa

February 14, 1994

Table 1
Allocation Study for Revised Cordele Coordinates
 prepared for
Tifton Broadcasting Corporation

FM Channel Study for Channel 236A6 at 32- 3-31 83-52-55
 Safe Distance of 25.0 Kilometers
 New (6 kW) Class A spacings employed

Channel	Call		City	State	Lat	Distance	Regrd
Applicant/Licensee					Long	Bearing	Clear
233C	WBYZ	LIC	Baxley	GA	31-47-10	138.6	95.0
South Georgia Broadcasters, Inc.				100.00 kW	309M	82-27- 3	102.1 43.6
234A	NEW	APP	Brundidge	AL	31-44-59	191.2	31.0
Ralph W. Black, Jr.				3.00 kW	100M	85-52-14	260.2 160.2
234A		VACANT	Brundidge	AL	31-43-12	186.8	31.0
				0.00 kW	0M	85-49- 0	258.9 155.8
234A	NEW	APP	Brundidge	AL	31-40-30	188.3	31.0
Sunbelt Developers, Inc.				0.94 kW	180M	85-49-12	257.4 157.3
234C3	WDECFM	CP	Americus	GA	31-53-55	44.0	42.0
Americus Broadcasting Company				25.00 kW	100M	84-18-29	246.4 2.0
235C3	WMKO	CP	Millen	GA	32-43-57	204.1	89.0
Radio Millen Broadcasting Co., Inc.				14.50 kW	122M	81-51-43	67.9 115.1
235C1	WTNT	LIC	Tallahassee	FL	30-34-43	168.0	133.0
Park Broadcasting of Florida, Inc.				98.00 kW	256M	84-15-49	192.6 35.0
235A	WMKO	LIC	Millen	GA	32-43-52	204.2	72.0
Radio Millen Broadcasting Co., Inc.				4.10 kW	122M	81-51-40	68.0 132.2
235C	WPCH	LIC	Atlanta	GA	33-48-27	198.7	165.0
Jacor Broadcasting of Atlanta, Inc.				99.00 kW	300M	84-20-26	347.6 33.7
236C3	WCHZ	APP	Harlem	GA	33-29- 7	223.2	142.0
GMR Broadcasting, Inc.				5.70 kW	164M	82-12- 7	44.4 81.2
236A	WCHZ	LIC	Harlem	GA	33-31-34	222.3	115.0
GMR Broadcasting, Inc.				6.00 kW	100M	82-15-55	42.5 107.3
236A	WLML	DEL	Montezuma	GA	32-17-53	30.2	115.0
Radio Cordele, Inc.				0.00 kW	0M	84- 2- 2	331.6 -84.8
236A	WFAV	ADD	Cordele	GA	31-57-26	15.4	115.0
Radio Cordele, Inc.				0.00 kW	0M	83-46- 8	136.4 -99.6
236C2	WXFX	LIC	Prattville	AL	32-28- 1	241.1	166.0
Downs Broadcasting II				50.00 kW	150M	86-24-15	281.5 75.1
236C3		VACANT	Harlem	GA	33-29-22	209.4	142.0
				0.00 kW	0M	82-25-28	40.3 67.4
236A		DEL	Montezuma	GA	32-17-58	30.1	115.0
Broadcast Associate Inc.				0.00 kW	0M	84- 1-34	333.0 -84.9

Table 1
Allocation Study for Revised Cordele Coordinates
 prepared for
Tifton Broadcasting Corporation

FM Channel Study for Channel 236A6 at 32- 3-31 83-52-55
 Safe Distance of 25.0 Kilometers
 New (6 kW) Class A spacings employed

Channel	Call	City	State	Lat	Distance	Regrd
Applicant/Licensee				Long	Bearing	Clear
236A	WLML	CP Montezuma	GA	32-17-53	30.2	115.0
Macon County Broadcasting Company			6.00 kW	48M	84- 2- 2	331.6 -84.8
236C	WAPEFM	LIC Jacksonville	FL	30-19-22	287.3	226.0
WAPE License Corporation			100.00 kW	300M	81-38-34	131.5 61.3
237A	WJYP	LIC Nashville	GA	31-10-18	109.8	72.0
Tifton Broadcasting Corporation			0.45 kW	243M	83-21-57	153.4 37.8
237C2	WJYP	PROP Nashville	GA	31-15-18	105.5	106.0
					83-17-08	147.5 -0.5
237A	WASZ	LIC Ashland	AL	33-18-30	230.8	72.0
Perry Communications, Inc.			1.00 kW	165M	85-50-58	307.4 158.8
237A	WTGAFM	LIC Thomaston	GA	32-51-49	102.7	72.0
Radio Georgia, Inc.			3.00 kW	91M	84-25-10	330.6 30.7
237C3	WJYP	CP Nashville	GA	31-10-18	109.8	89.0
Tifton Broadcasting Corporation			9.70 kW	159M	83-21-57	153.4 20.8
237A		VACANT Valley	AL	32-55-12	157.8	72.0
			0.00 kW	0M	85-13- 4	307.6 85.8
238C	WTVYFM	LIC Dothan	AL	31-15-16	158.3	95.0
Woods Communications Group, Inc.			100.00 kW	323M	85-15-39	236.1 63.3
239C2	WQFW	LIC Valdosta	GA	30-42-17	167.0	55.0
Metro Media Broadcasting, Inc.			36.00 kW	174M	83- 6-37	153.7 112.0
239A	WKZJ	CP Greenville	GA	32-54- 0	126.0	31.0
Orchon Broadcasting Company			6.00 kW	100M	84-46-54	318.0 95.0
239C3		VACANT Greenville	GA	33- 1-11	135.3	42.0
			0.00 kW	0M	84-46- 6	322.2 93.3
239C3	WKZJ	APP Greenville	GA	32-50-48	115.9	42.0
Orchon Broadcasting Company			3.40 kW	267M	84-41-27	319.2 73.9
289A	WFFM	LIC Ashburn	GA	31-41-17	46.8	10.0
Tift County Broadcasting, Inc.			6.00 kW	100M	83-38-38	151.2 36.8
290A	WLML	ADD Montezuma	GA	32-17-53	30.2	10.0
Radio Cordele, Inc.			0.00 kW	0M	84- 2- 2	331.6 20.2

Table 2
Allocation Study for Revised Nashville Coordinates
prepared for
Tifton Broadcasting Corporation

FM Channel Study for Channel 237C2 at 31-15-18 83-17-08
 Safe Distance of 25.0 Kilometers
 New (6 kW) Class A spacings employed

Channel	Call		City	State	Lat	Distance	Regrd
Applicant/Licensee					Long	Bearing	Clear
234C3	WDECFM	CP	Americus	GA	31-53-55	120.5	56.0
Americus Broadcasting Company				25.00 kW	100M	84-18-29	306.6 64.5
235C1	WTNT	LIC	Tallahassee	FL	30-34-43	119.9	79.0
Park Broadcasting of Florida, Inc.				98.00 kW	256M	84-15-49	231.5 40.9
236C	WAPEFM	LIC	Jacksonville	FL	30-19-22	188.2	188.0
WAPE License Corporation				100.00 kW	300M	81-38-34	122.9 0.2
236C3	WCHZ	APP	Harlem	GA	33-29- 7	267.5	117.0
GMR Broadcasting, Inc.				5.70 kW	164M	82-12- 7	22.1 150.5
236C3		VACANT	Harlem	GA	33-29-22	260.7	117.0
				0.00 kW	0M	82-25-28	17.9 143.7
236A		DEL	Montezuma	GA	32-17-58	135.4	106.0
Broadcast Associate Inc.				0.00 kW	0M	84- 1-34	328.0 29.4
236A	WLML	CP	Montezuma	GA	32-17-53	135.6	106.0
Macon County Broadcasting Company				6.00 kW	48M	84- 2- 2	328.7 29.6
236A	WLML	DEL	Montezuma	GA	32-17-53	135.6	106.0
Radio Cordele, Inc.				0.00 kW	0M	84- 2- 2	328.7 29.6
236A	WFAV	PROP	Cordele	GA	32-03-31	105.5	106.0
				0.00 kW	0M	83-52-55	327.8 -0.5
237A	WTGAFM	LIC	Thomaston	GA	32-51-49	208.0	166.0
Radio Georgia, Inc.				3.00 kW	91M	84-25-10	329.3 42.0
237A	WJYF	LIC	Nashville	GA	31-10-18	12.0	166.0
Tifton Broadcasting Corporation				0.45 kW	243M	83-21-57	219.6 -154.0
237A	WXCW	LIC	Homosassa Springs	FL	28-53-14	272.4	166.0
West Wind Broadcasting, Inc.				2.80 kW	103M	82-31-39	164.2 106.4
237A	WXCW	APP	Homosassa Springs	FL	28-53-14	272.4	166.0
West Wind Broadcasting, Inc.				6.00 kW	100M	82-31-39	164.2 106.4
237A		VACANT	Valley	AL	32-55-12	259.5	166.0
				0.00 kW	0M	85-13- 4	315.8 93.5

Table 2
Allocation Study for Revised Nashville Coordinates
 prepared for
Tifton Broadcasting Corporation

FM Channel Study for Channel 237C2 at 31-15-18 83-17-08
 Safe Distance of 25.0 Kilometers
 New (6 kW) Class A spacings employed

Channel	Call	City	State	Lat	Distance	Regrd
Applicant/Licensee				Long	Bearing	Clear
237A	WXCW	APP	Homosassa Springs	, FL	28-53-14	272.4 166.0
West Wind Broadcasting, Inc.	2.80 kW	103M	82-31-39	164.2	106.4	
237C3	WJYP	CP	Nashville	, GA	31-10-18	12.0 177.0
Tifton Broadcasting Corporation	9.70 kW	159M	83-21-57	219.6	-165.0	
238A	WWGO	APP	Silver Springs	, FL	29-16-55	249.1 106.0
Stoehr Communications Corporation	6.00 kW	100M	82- 2-50	151.1	143.1	
238C	WTVYFM	LIC	Dothan	, AL	31-15-16	188.1 188.0
Woods Communications Group, Inc.	100.00 kW	323M	85-15-39	270.5	0.1	
238C1	WIXV	LIC	Savannah	, GA	32- 3-30	204.0 158.0
Savannah Broadcasting Company	100.00 kW	261M	81-20-20	63.7	46.0	
238A	WWGO	LIC	Silver Springs	, FL	29-16-55	249.1 106.0
Stoehr Communications Corporation	3.00 kW	100M	82- 2-50	151.1	143.1	
239C2	WQFW	LIC	Valdosta	, GA	30-42-17	63.3 58.0
Metro Media Broadcasting, Inc.	36.00 kW	174M	83- 6-37	164.6	5.3	
240A	WHBX	LIC	Tallahassee	, FL	30-27-46	130.9 55.0
HVS Partners	3.00 kW	91M	84-18- 4	228.1	75.9	
240C2	WQZY	CP	Dublin	, GA	32-33-51	150.3 58.0
State Broadcasting Corporation	27.00 kW	47M	82-52-18	14.0	92.3	
240C1	WQZY	LIC	Dublin	, GA	32-40-42	172.2 79.0
State Broadcasting Corporation	88.00 kW	312M	82-33-26	23.4	93.2	
290A	WHFE	DEL	Lakeland	, GA	31- 4-55	21.7 15.0
Lakeland Broadcasters	0.00 kW	0M	83-10-47	152.2	6.7	
290A	WHFE	CP MOD	Lakeland	, GA	31- 3-26	22.5 15.0
Lakeland Broadcasters, Inc.	6.00 kW	100M	83-13-50	166.5	7.5	
290C3	WHFE	ADD	Lakeland	, GA	31- 2-25	30.6 17.0
Lakeland Broadcasters	0.00 kW	0M	83- 5- 0	140.9	13.6	
291A	WLVO	CP	Live Oak	, FL	30-20-19	105.5 15.0
Leon F. Pettersen	6.00 kW	100M	82-59-13	164.2	90.5	
291A	WKMK	CP	Sylvester	, GA	31-30-15	67.2 15.0
K&B Broadcasting Company, Inc.	6.00 kW	100M	83-55-46	294.4	52.2	

CERTIFICATE OF SERVICE

I, Patricia A. Neil, a secretary in the law firm of Smithwick & Belendiuk, P.C., certify that on this 14th day of February, 1994, copies of the foregoing were mailed, postage prepaid, to the following:

Mr. Paul Reynolds
Consultant
415 North College Street
Greenville, Alabama 36037

James W. Jennings
Vice President
Radio Cordele, Inc.
910 20th Avenue East
P.O. Box 460
Cordele, Georgia 31015

John F. Tuck & Phonso Donaldson
Receivers of Dawson Broadcasting
Company
c/o Truitt Martin, Jr., Esquire
P.O. Box 683
Dawson, Georgia 31742

Macon County Broadcasters, Inc.
Radio Station WLML(FM)
P.O. Box 511
Montezuma, Georgia 31036

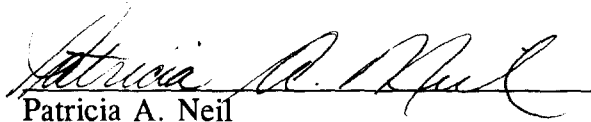
John M. Burgett, Esquire
Fisher, Wayland, Cooper & Leader
2001 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Bruce A. Eisen, Esquire
Kaye, Scholer, Fierman, Hayes & Handler
901 15th Street, N.W.
Suite 1100
Washington, D.C. 20005-2327

Mark E. Fields, Esquire
Attorney at Law
1825 I Street, N.W.
Suite 400
Washington, D.C. 20006

Dan J. Alpert, Esquire
Law Office of Dan J. Alpert
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

Mr. Walter McCrary, Jr.
119 W. Harris Street
Cuthbert, Georgia 31740


Patricia A. Neil